

REMARKS

Applicant has carefully reviewed the Examiner's October 4, 2002, Official Action and respectfully requests reconsideration based on the above amendments and the following comments.

Claims 1-22 have been cancelled in favor of new claims 23-52 which remain in the application for consideration.

Enclosed herewith are corrected Figs. 4, 5, 6 and 7 amended in red for the Examiner's approval.

In response to the Examiner's objection to the abstract and specification, Applicant has enclosed a new substitute abstract and amended the specification to eliminate all the problems identified by the Examiner in the original abstract and the specification. Applicant respectfully submits that these objections have now been overcome.

In response to the Examiner's objection to the drawings, Applicant has enclosed proposed amended figs. 4-6 showing the cross-section of lip 13 cross-hatched to indicate it is a rubber-elastic portion. Lip 13 is the only element described in the disclosure as being rubber-elastic. Applicant respectfully submits that this objection is overcome by the proposed figures.

In response to the Examiner's 35 U.S.C. § 112, second paragraph rejection of claims 1-22, Applicant has

cancelled claims 1-22 in favor of new claims 23-52 which have been drafted to eliminate each of the problems identified by the Examiner. Applicant respectfully submits that this rejection has now been overcome.

Applicant thanks the Examiner for his indication that claims 5 and 6 would be allowable subject to being rewritten in independent form. In response, Applicant has drafted new independent claim 23 to include the features of claim 1 and allowable claim 5. Accordingly, Applicant, having overcome the Examiner's 35 U.S.C. § 112 rejection as noted above, respectfully submits that new independent claim 23 is now allowable along with claims 24-52 dependent therefrom and that this application is now in condition for allowance.

For the record, Applicant sets out the differences between the claims invention and the following prior art patents cited by the Examiner:

Althoff

Althoff et al. (US-5,148,925) discloses a rack for installation on a wall with spacers vertically spacing the members constituting the rack. Each rack member includes a shelf 4 integral with a wall component 5 of the rack. The shelf 4 extends horizontally from wall component 5 and terminates in a barrier 6 having an upper portion 6A and a lower portion 6B. The shelf 4 supports a box shaped

container indicated at C with the upper portion of the barrier serving to confine the lower edge of the container in place on the shelf. The lower portion 6B of said barrier serves to confine the uppermost edge of a subjacent rectangular container C against outward movement. The clearance between the upper most edge of container C and the underside of shelf 4 is of a magnitude to permit lifting of the container to the extent that the container's lowermost edge may swing outwardly past barrier 6 (vide column 2, lines 22-36 and Figures 2 and 3).

The characterization of the rack according to Althoff et al. differs from the characteristic features of the carrying device according to the present application, according to which there is no barrier, neither at the upper supporting face of the carrying means nor at the upper retaining means for confining the flat, box-shaped items in place in the carrying device. Thus, the box-shaped items do not have to be lifted, tilted and swung outwardly past any barrier in order to be removed from the carrying device. Neither do the items have to be tilted pushed up behind an upper barrier and swung inwardly in order to be placed and retained in the carrying device according to the present invention.

In the carrying device of the present invention each box-shaped item is just pushed directly and linearly in an upright, substantially vertical position in between the

lip of a rubber-elastic portion of the upper retaining means and the essentially smooth and plane upper supporting face of the carrying means of the carrying device and is then retained in place in the carrying device due to the rubber-elastic lip portion exerting a downward force against the upper edge of the box-shaped item clamping the item between the lip and the smooth and plane upper surface of the carrying means, cf. the more detailed explanation of this retaining function on page 13, lines 1-30 of the specification.

Besides, the box-shaped item is inserted into the carrying device of the present invention with a vertical edge facing towards the front of the carrying device, so that many box-shaped items can be inserted in a side by side relationship with their largest flat surfaces facing each others.

This is not the case in the rack according to Althoff et al., in which each rectangular article is inserted into the rack with one of its two main surfaces facing against the front of the rack and maintained in this position during storage in the rack. Thus, it is not possible to obtain a close storage of many similar box-shaped items in the rack and still be able to leave through such stack of items as leaves in a book as is the case with the box-shaped items when inserted into the carrying device according to the present invention as explained in more

details on page 6, lines 1-18 and page 14, lines 1-34 of the present specification.

Hence, the construction details of the carrying device of the claimed invention is quite different from the construction details of the rack according to Althoff et al. and the functionalities obtainable with the carrying device of the claimed invention is not obtainable either with the rack according to Althoff. Besides, there is no hint in Althoff's disclosure of how to obtain these functionalities.

Nicholson

Nicholson et al. (US-4,508,301) discloses a shelf support for engaging a rear portion of a rectangular section shelf having an underside and a top and holding said shelf as a cantilever, said shelf support being formed as an elongate member so that the support can extend along a substantial part of the length of a rear portion of said shelf, said shelf support comprising:

mounting means for mounting said shelf support on an upright surface, ...

support means carried by said mounting means and comprising first and second support parts at substantially the same level for engaging a rear portion of the underside of said shelf, ...

retaining means carried by said mounting means for engaging a rear portion of the top of said shelf, said retaining means having a downwardly extending lowermost

retaining part which is spaced above said first and second support parts ...

wedge means having a wedge surface inclined forwardly at a small angle to the horizontal portion for engagement by said rear of said shelf, - Vide claim 1.

Fig. 3 illustrates an embodiment of such shelf support, wherein a second wedge zone 20 is provided to the rear of the first wedge zone 7 behind the step 8, the second wedge zone 20 terminating in a step 21. The rear edge of the second wedge zone 20 is higher than that of the first wedge zone 7, but the front lip 3 is raised so as to be at the same level as the rear edge of the second wedge zone 20, cf. column 3, lines 40-48.

An elongate, uniform and continuous section insert 23 can be engaged under the retaining surface 10. The insert 23 has a rib 24, which engages in a respective groove 15. In effect the underside of the insert 23 acts as a new retaining surface and a thinner shelf can be accommodated, cf. column 3, line 67 - column 4, line 5. - There is no indication stating that this insert section is made of a rubber-elastic material neither has it any lip portion facing towards the upper side of the shelf to be inserted in the shelf support device.

Thus, the carrying device of Nicholson et al. is also quite different from the carrying device according to the present application, firstly because it is intended for

supporting a shelf, i.e. a rectangular item, which is to be inserted with its major surfaces horizontally and not vertically as is the case with the items introduced into the carrying device of the present invention. Secondly the upper retaining means of the carrying device according to Althoff does not constitute a rubber-elastic portion having a lip facing towards and to be engaged with the upper edge of an item, when said item is inserted into the carrying device and thus exerts a downward pressure on the upper edge of the item. Thirdly the upper surface of the support member of the carrying device according to Althoff is provided with wedges that act as barbs (cf. column 3, lines 51-55), whereas the upper surface of the carrying member of the carrying device according to the present application is essentially smooth and plain.

Consequently there is no hint in the disclosure of Nicholson how to modify the upper and lower grooves in the rack of Althoff so as to correspond to the particular characteristics of the carrying means and retaining means in the carrying device of the present application. Accordingly claim 23 of the present application is clearly distinctive and non-obvious in view of the disclosure of Althoff and of the disclosure of Nicholson, taken alone or in combination.

The shelf defined in the original claims 7-11 of the present application does not constitute a supporting part of the carrying means of the present application when

the box-shaped items are inserted vertically into the carrying device for being retained therein. The shelf defined in claims 7-11 is only to be used when an item is extracted from the carrying device and temporarily is placed in a tilted fashion with its lower edge resting against the upper surface of the shelf and its upper edge resting against the front of the chassis of the carrying device, e.g. when the CD contained in the box-shaped item is to be used in a computer, a CD player or the like.

Klukos

Klukos (US-4,191,110) discloses a shelf construction for storing articles for mounting between a pair of vertically extending end supports mounted in space parallel relationship to a rear support surface and including a plurality of vertically spaced, horizontally extending support members extending between the end supports. The longitudinally extending raised projections 66 (shown in fig. 4) provide a non-skid surface for objects placed on a tray, but the shelf construction of Klukos does not comprise the main features of the claimed carrying device as defined in new claim 23 and is therefore not considered as a relevant citation in the present context.

Albright

Albright (US-3,425,568) discloses a mounting strip comprising means forming a body portion adapted for

attachment towards surface, said body portion including upper and lower surfaces extending outwardly from the wall surface, means associated with each said upper and lower surface cooperating with a wall surface to form respective retention channels there along and a plurality of longitudinally spaced holes in each said upper and lower surface adjacent the edge thereof remote from the wall surface. This mounting strip is mainly used for mounting blackboards having a chalk tray 22 which may have upwardly extending projections, apparently to provide tray compartments for placing chalks or pieces of chalk. The mounting strip of Albright does not either comprise the characteristic features of the carrying device of the present application as defined in claim 1. Consequently Albright is not considered a relevant citation against the patentability of the carrying device as defined in the new claim 23.

Krinke

Krinke et al. (US-5,255,802) discloses a merchandise display system having a base member and a back member joined together. This display system may have an edger provided with upper and lower clips 44 so that a decorative display sign may be carried on surface receiving clips. However, the merchandise display system according to Krinke does not comprise the main characteristic features of the carrying device as defined in new claim 23 and is

therefore not considered relevant in the present context either.

The remaining references cited by the Examiner - Massaro, Lynch et al., Dahl, Brazier et al., Ernetoft, Price, Jr. et al., Lemmerman et al., ('206) and ('780) Pepicelli et al., Wright et al., and Savino cited by the Examiner are not relied upon and are indeed less relevant than the above discussed references.

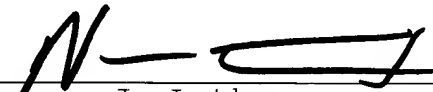
Consequently it is respectfully submitted that the characteristic features of the carrying device as defined in the new claim 23 of the application are novel and non-obvious in view of the closest related prior art cited by the Examiner.

Applicant submits that the invention is new and unobvious and not disclosed by the cited art. Accordingly, Applicant respectfully solicits the Examiner's early review and issuance of this application.

Respectfully submitted,

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ABSTRACT

A carrying device for box-shaped items, such as compact discs in covers, comprises an upper, elongate retaining means with a rubber-elastic portion and a stop for the items, and a lower, elongate carrying member with a horizontal supporting face and a stop for the items.

The retaining member has a lip facing the items.

The carrying device may below have a shelf, preferably with saw-tooth shaped steps.

The retaining member and the carrying member are preferably connected by a wall.

The carrying device has preferably a suspension member for suspension on a wall, and preferably a supporting member for support against the wall. The supporting member is preferably lengthwise adjustable for shortening.

The carrying device has preferably feet for resting on a table top, and its supporting structure is preferably constituted by an extruded metal blank.



Proposed
X-hatching

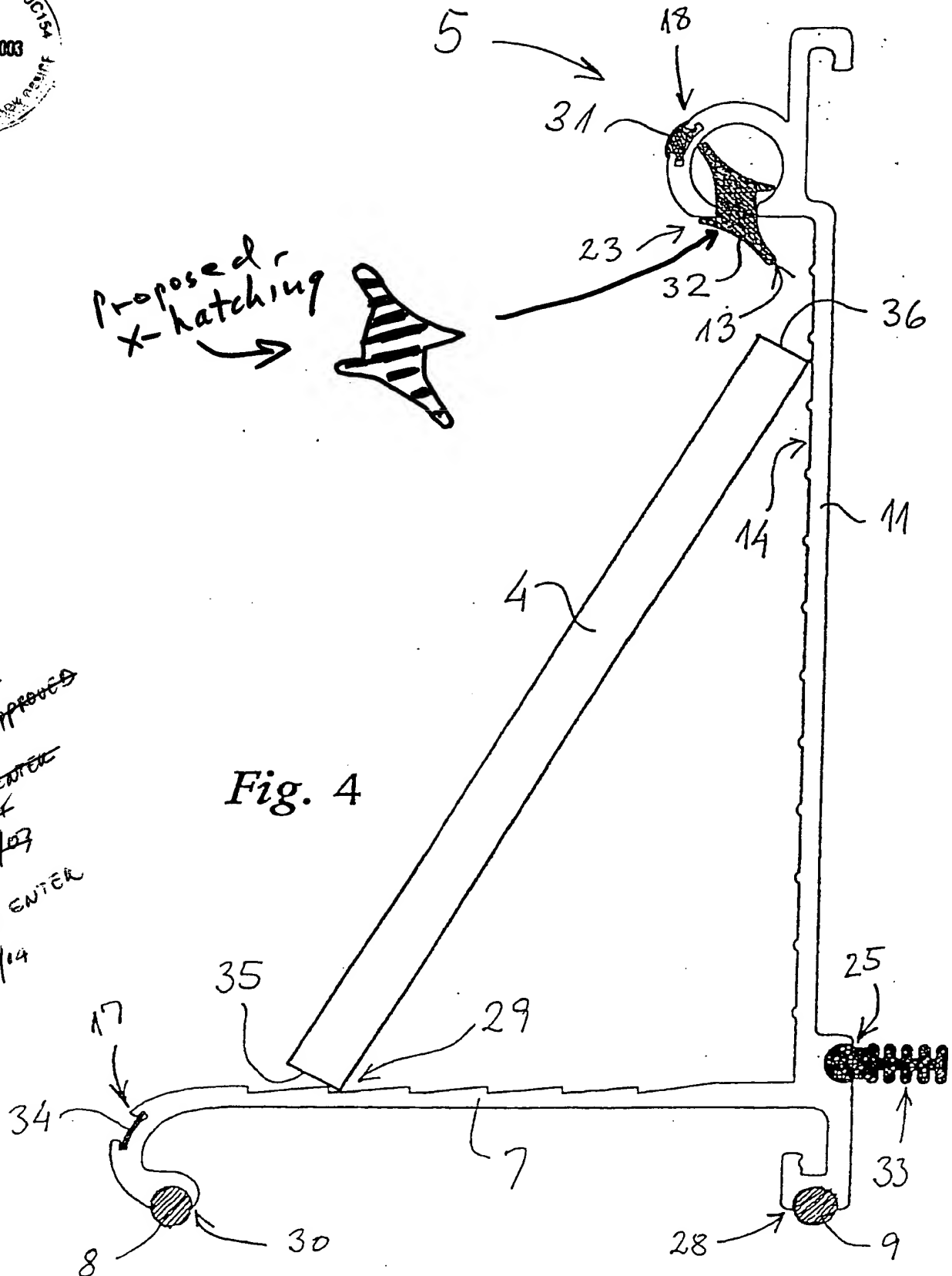
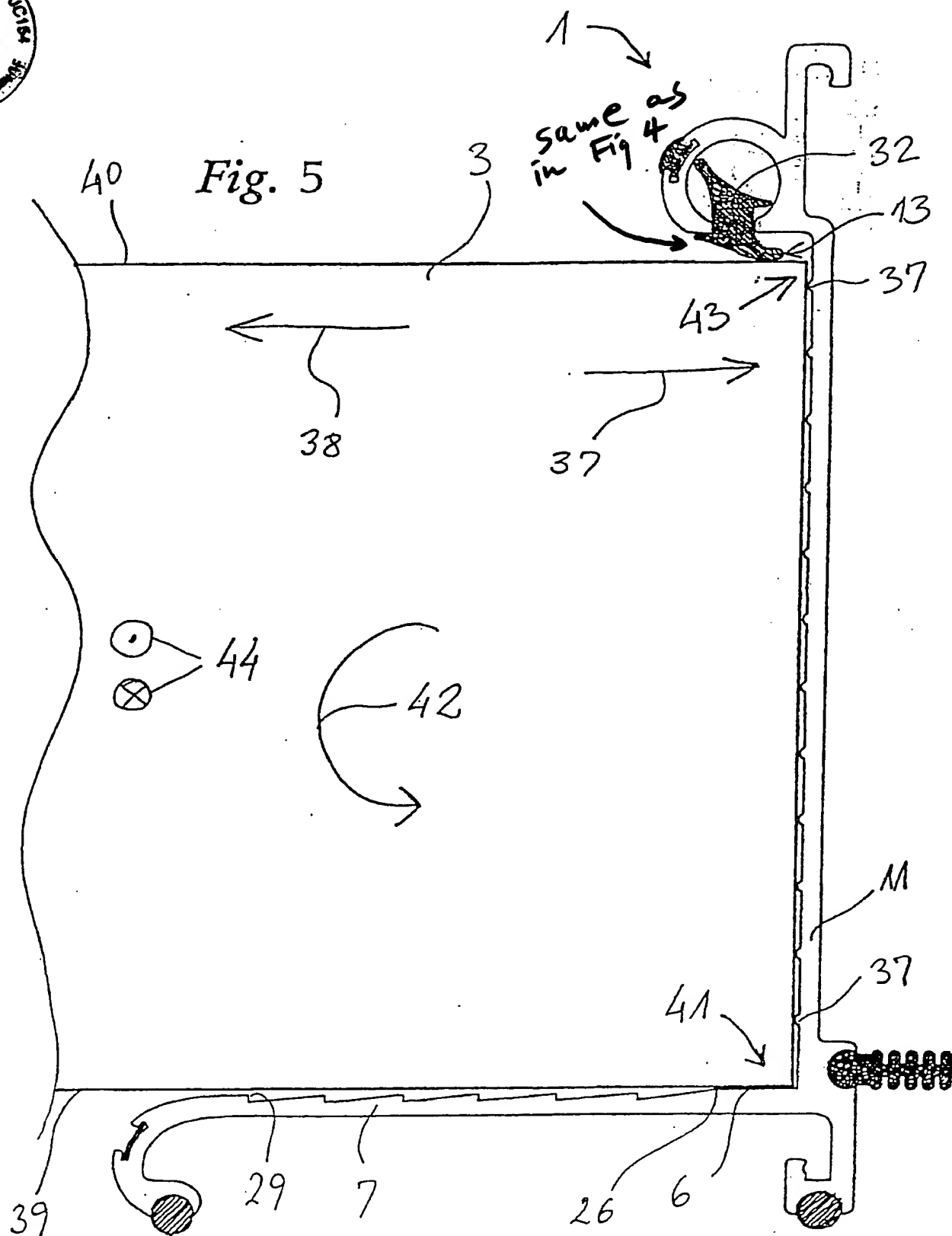


Fig. 4

DEVELOPED
NOT APPROVED

DO NOT ENTER
4/15/03

OK TO ENTER
04/16/04



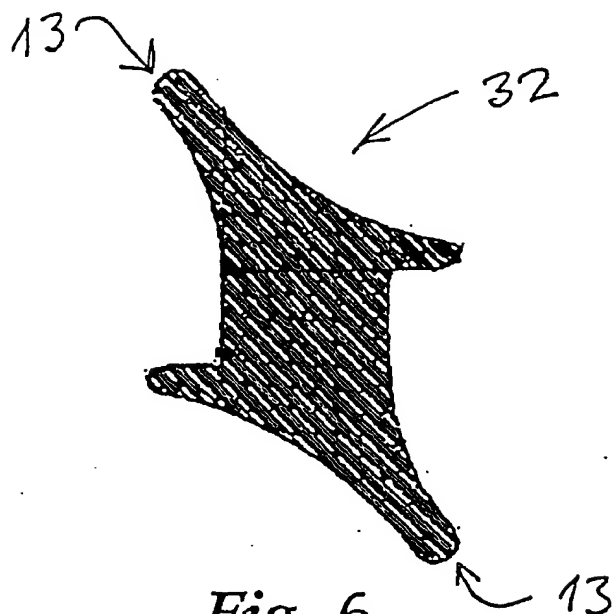


Fig. 6

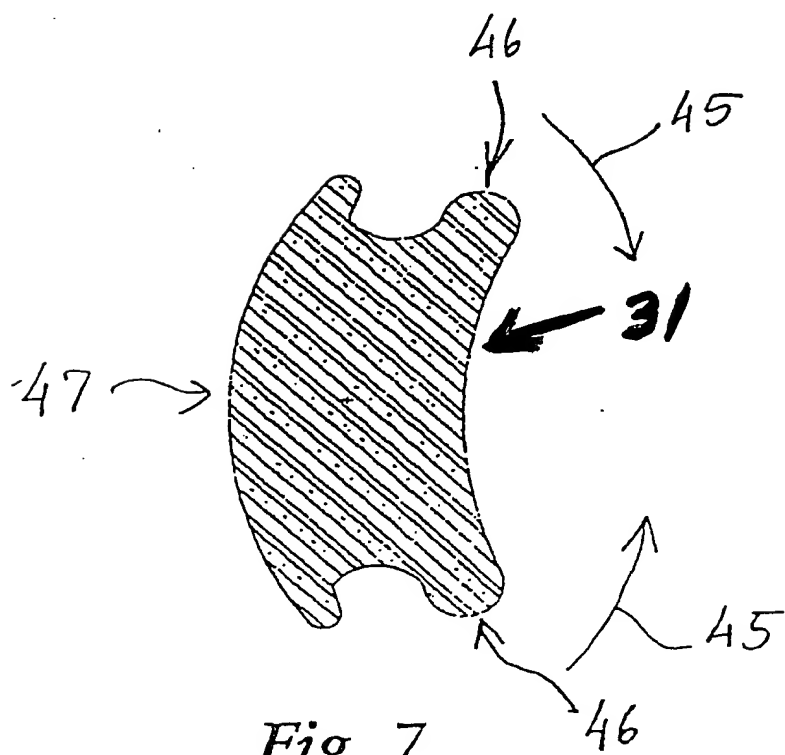


Fig. 7